THE HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case

Criminal Misc. Application No. 489 of 2005

Vikram & others

Versus

Civil Judge (J.D.) & another

Date of decision :- 02-08-05

~~A.F.R. (Approved for Reporting)~~

Not approved for reporting

Date :- August 2, 2005. Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of the Judgment when it is put up before the Judge for signature.

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No.489 of 2005

1. Vikram S/o Baldeva
2. Beer Singh S/o Baldeva
3. Pawan S/o Beer Singh
4. Smt. Siya W/o Vikram
5. Magan S/o Beer Singh

All R/o Village Rampur Raighati
P.S. Laksar
District Haridwar ……Applicants

Versus

1. Civil Judge(J.D.)/J.M. Laskar
   District Haridwar
2. Bahadur S/o Khadia
   R/o Rampur Raighati
   P.S. Laksar
   District Haridwar ……Respondents

Date :- 02nd August, 2005

Hon'ble J.C.S. Rawat, J.

Heard Sri Parikshit Saini learned counsel for the applicants and Sri G. S. Sandhu learned A.G.A. for the State.

This petition under section 482 Cr.P.C. has been filed to quash the summoning order dated 6.6.2005 passed by the Judicial Magistrate, Laksar in criminal complaint case No.95/2005 under section 147, 323, 324, 325, 504, 506, 452 I.P.C. and to quash the proceedings of criminal complaint case No.95/2005 under sections 147, 323, 324, 325, 506, 506, 452 I.P.C. pending before the Judicial Magistrate, Laksar, Haridwar.

The prosecution case in a nutshell is that on 24.2.2005 the respondent No.2 preferred an application under section 156(3) Cr.P.C. against the applicants before the Judicial Magistrate, Laksar, Haridwar. The said application under section 156(3) preferred by the

respondent No.2 was rejected by the Judicial Magistrate vide order dated 1.3.2005. Thereafter, the respondent No.2 preferred a criminal complaint against the applicants before the Judicial Magistrate and the same was registered as criminal complaint case No.95/2005. The learned Magistrate recorded the statement under section 200 & 202 Cr.P.C. and thereafter he took cognizance against the applicants under sections 147, 323, 324, 325, 504, 506, 452 I.P.C. vide order dated 6.6.2005.

It is pertinent to mention here that the applicant No.1-Vikram filed a compliant before the S.P., Haridwar on 22.1.2005 against the private respondent, but the police did not lodge the report. Thereafter, the applicant No.1 preferred an application under section 156(3) Cr.P.C. before the Judicial Magistrate, Laksar. On the said application, the Judicial Magistrate, Laksar directed to lodge the FIR and to investigate the matter. Thereafter, on 5.2.2005 an FIR was lodged against the respondent No.2-Bahadur, Sukhbeer and Mahendra under sections 323, 324, 427, 504, 506 I.P.C. The applicant No.1 & 2 sustained the injuries and they were medically examined on 22.1.2005. The medical report of the same is also annexed with this petition.

I have heard the learned counsel for the applicants and perused the record.

It is evident from the statement recorded under section 200 & 202 Cr.P.C. that there is sufficient ground to proceed against the accused persons. It is also admitted that the incident of ‘Marpeet’ took place between the parties, in which both the parties have sustained the injuries.

Perusal of the record reveals that one-Baldeva has also been summoned by the court below, but there is no

evidence against him. Even, the name of Baldeva was not mentioned in the criminal complaint. As such, there is no evidence against him. The proceedings cannot be initiated against Baldeva. The cognizance order with regard to Baldeva is set-aside. The cognizance order passed by the court below is modified to the extent that no proceeding shall be initiated against Baldeva.

The petition is disposed of accordingly.

(J. C. S. Rawat, J.)

Dated 02.8.2005

LSR